



**UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD  
OFFICE OF THE GENERAL COUNSEL  
DIVISION OF LEGAL COUNSEL  
CONTEMPT, COMPLIANCE, AND SPECIAL LITIGATION  
BRANCH**

Washington, D.C. 20570

November 18, 2015

**VIA Electronic Case Filing**

Honorable Andrew L. Carter, Jr.  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: *Kelly v. Pearce*, Case No. 1:15-cv-05117-ALC

Dear Judge Carter:

As permitted by this Court in the November 5 status conference concerning the above-referenced case, this letter responds to Mr. Murray's November 12, 2015 letter (Docket #51). Mr. Murray's letter essentially repeats the argument previously made by Plaintiffs Kelly *et al.* in their Opposition to the Board's Motion to Dismiss (Docket #45). That is Plaintiffs claim that the Board's processing of the Employer's unit clarification petition effectively forced the Union to make a contractual concession by disregarding the parties' implied agreement to forego access to the Board's representational processes. As a substantive matter, the Board fully responded to this argument in its Reply in support of its Motion to Dismiss (Docket # 48) at 6-10.

More importantly, because it is clear that this Court lacks jurisdiction to review the Board's unit clarification proceeding, as fully explained in the Board's filings in this matter (Docket # 40 and # 48), the above-referenced case should be dismissed.

Unfortunately, the Board cannot opine as to the proper disposition of the two related cases between the New York New Jersey Regional Joint Board, Local 340 and Brooks Brothers Group, Inc., 1:12-cv-05006-ALC and 1:15-cv-08365-ALC, because the Board is not a party to those matters.

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Respectfully submitted,

/s/ Dawn L. Goldstein  
Dawn L. Goldstein  
Supervisory Attorney

Matthew Bruenig  
Attorney

National Labor Relations Board  
Contempt, Compliance, and Special Litigation Branch  
1015 Half Street, S.E.  
Room 4017  
Washington, DC 20570  
(202) 273-2936  
[Dawn.Goldstein@nlrb.gov](mailto:Dawn.Goldstein@nlrb.gov)

Admitted *Pro Hac Vice*

Cc: Mr. Thomas Murray  
Mr. Theo Gould